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| 10/591,712 | 09/06/2006 | Jun Cheng | L9289.06187 | 3146 |
| 53989 | 7590 | 12/02/2009 | EXAMINER | |
| Dickinson Wright PLLC James E. Ledbetter, Esq. International Square 1875 Eye Street, N.W., Suite 1200 Washington, DC 20006 | | | LEE, ANDREW CHUNG CHEUNG | |
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| | | | 2476 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,712

Applicant(s)

CHENG ET AL.

Examiner

Andrew C. Lee

Art Unit

2476

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Amendment

1. Claims 1 – 10 were cancelled.

Claim 11 – 14 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 11, 13, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, according to the current sentence structure for the amended claim subject, the subject matter “**which**” in the amended claim subject matter “the number of **which** matches ..” is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what “**which**” refers to. Does applicant mean the claim subject matter “**which**” refers to “a number of signals”, or “transmission signals”. Also, the amended claim subject matter “a transmission signal” is not clear. One of ordinary skill in the art has difficult time to understand which signal of “a transmission signal” refers to in the claim body. Does it refers to one of the transmission signals, or one of the number of signals, or a new transmission signal apart from the previous claimed signals. In the second paragraph of the claim subject matter, it is unclear who or what is transmitting transmission signals. Is

the base station configured transmitting transmission signals? Or is the receiving terminal configured transmitting transmission signals? Clarification and appropriate correction are required.

Claims 13 and 14 have similar deficiencies as in claim 11.

Regarding claim 13, the subject matter "**which**" in the amended claim subject matter "the number of **which** matches .." is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what "**which**" refers to. Does applicant mean the claim subject matter "**which**" refers to "a number of signals", or "transmission signals". Also, the amended claim subject matter "a transmission signal" is not clear. One of ordinary skill in the art has difficult time to understand which signal of "a transmission signal" refers to in the claim body. Does it refers to one of the transmission signals, or one of the number of signals, or a new transmission signal apart from the previous claimed signals. In the second paragraph of the claim subject matter, it is unclear who or what is transmitting transmission signals. Is the base station having a transmitting section configured transmitting transmission signals? Or is the receiving terminal having a transmitting section configured transmitting transmission signals? Clarification and appropriate correction are required. Clarification and appropriate correction are required.

Regarding claim 14, the claim subject, "**which**" in the amended claim subject matter "the number of **which** matches .." is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what "**which**" refers to. Does applicant mean the claim subject matter "**which**"

refers to "a number of signals", or "transmission signals". The amended claim subject matter "a transmission signal" is not clear. One of ordinary skill in the art has difficult time to understand which signal of "a transmission signal" refers to in the claim body. Does it refers to one of the transmission signals, or one of the number of signals, or a new transmission signal apart from the previous claimed signals. Clarification and appropriate correction are required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 11, 12, 13, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Toskala et al. (US 6917602 B2)

Regarding claim 11, Toskala et al. disclose a transmitting method (*Abstract, col. 2, lines 23 – 29*) comprising: receiving information which is transmitted from a base station apparatus (*"receiving acquisition indicator (AI) from node B", col. 2, lines 35 – 41; Fig. 4, element 350, receiving Node B station interpreted as a base station; col. 6, lines 51 – 67*) and which relates to a number of signals to be transmitted (*col. 2, lines 35 – 41*); and transmitting transmission signals, the number of which matches the information and comprising a transmission signal and at least one duplication of said transmission

signal (*Fig. 3, col. 6, lines 11 – 20*), using a resource selected at random from resource candidates (*col. 2, lines 35 – 50; Fig. 3, Fig. 5. col. 5, lines 42 – 57*).

Regarding claim 12, Toskala et al. disclose the transmitting method claimed wherein the resource candidates are a timing (*"waiting for a time-out" Fig. 1, col. 2, lines 3 – 8, Fig. 3, Fig. 5*), transmission frequency, or spreading code (*"orthogonal code"; col. 2, lines 61 – 63*).

Regarding claim 13, Toskala et al. disclose a transmitting apparatus (*Fig. 4, element 300, user equipment, col. 6, lines 51 – 67*) comprising: a receiving section that receives information which is transmitted from a base station apparatus (*"receiving acquisition indicator (AI) from node B", col. 2, lines 35 – 41; Fig. 4, element 304, receiver interpreted as a receiving section, element 350, receiving Node B station interpreted as a base station; col. 6, lines 51 – 67*) and which relates to a number of signals to be transmitted (*col. 2, lines 35 – 41*); and a transmitting section that transmits the transmission signals, the number of which matches the information (*Fig. 3, col. 6, lines 11 – 20*) and comprising a transmission signal and at least one duplication of said transmission signal, using a resource selected at random from resource candidates (*col. 2, lines 35 – 50; Fig. 3, Fig. 5. col. 5, lines 42 – 57*).

Regarding claim 14, Toskala et al. disclose an integrated circuit (*Fig. 4*) comprising: a reception controlling section that controls processing of receiving information which is transmitted from a base station apparatus (*"receiving acquisition indicator (AI) from node B", col. 2, lines 35 – 41; Fig. 4, element 304, receiver interpreted as a receiving section, element 350, receiving Node B station interpreted as*

a base station; col. 6, lines 51 – 67) and which relates to a number of signals to be transmitted (col. 2, lines 35 – 41); and a transmission controlling section that controls processing of transmitting transmission signals the number of which matches the information (Fig. 3, col. 6, lines 11 – 20) and comprising a transmission signal and at least one duplication of said transmission signal, using a resource selected at random from resource candidates (col. 2, lines 35 – 50; Fig. 3, Fig. 5. col. 5, lines 42 – 57).

Response to Arguments

6. Applicant's arguments filed on 9/28/2009 with respect to claims 11, 12, 13, 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Takashima (5065398).
- b) Zhu et al. (5768527).
- c) Kohno (US 7315898 B2).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Lee whose telephone number is (571)272-3131. The examiner can normally be reached on Monday through Friday from 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew C Lee/
Examiner, Art Unit 2476
<1Qu10:11/23>

/Ayaz R. Sheikh/
Supervisory Patent Examiner, Art Unit 2476